

GENERAL COUNCIL  
and  
BOARD OF TRUSTEES



CONFEDERATED TRIBES  
of the

*Umatilla Indian Reservation*

P.O. Box 638  
PENDLETON, OREGON 97801  
Area Code 541 Phone 276-3165 FAX 276-3095

July 29, 2003

James Connaughton, Chair of the CEQ  
Council on Environmental Quality  
722 Jackson Place, N.W.  
Washington, DC 20503

Re: Mainstem Columbia/Snake River Temperature TMDL

Dear Mr. Connaughton:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) have been participating in the intergovernmental Columbia and Snake River temperature TMDL workgroup for the past year. A tremendous amount of work has been contributed to this effort by EPA Region 10 and the states of Oregon, Washington and Idaho. Recently Rick George, Manager of our Environmental Planning and Rights Protection program spoke with Tom Boyling of your staff to share the CTUIR's serious concerns about the long delay in release of the Columbia Snake Rivers temperature TMDL to the public. This letter follows up on the dialogue started in that conversation and asks for your help in getting the TMDL completed and implemented.

The CTUIR has been very disappointed with the efforts of the Army Corps of Engineers and Bureau of Reclamation to politicize and undermine the basic legal framework of TMDL regulation, while the region has worked to reduce river temperatures. The Corps and the Bureau have argued that their dams should be viewed in the temperature TMDL as "background". A position that we surmise most private sources would like to take. Our experience however, with exception of the Corps and Bureau, is that private sources have worked with us to complete TMDLs and get to the business of implementing them.

There are thousands of dams across the country, many of which cause temperature problems for the rivers they impound. If the Columbia and Snake River dams are allowed to undermine the Clean Water Act (CWA) TMDL process, either by being considered background sources or by shirking the requirement to meet down stream state water quality standards, it would fundamentally damage the ability of states and tribes to work with dams, within their jurisdictions, to protect water quality and salmon.

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TREATY JUNE 9, 1855 ♦ CAYUSE, UMATILLA AND WALLA WALLA TRIBES

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As you may know, one of the next TMDLs in the Columbia River will address toxic chemical contamination of salmon and other food fish. Some of the toxic chemicals may be originating at the federal dams. If the Corps and Bureau are successful in escaping their obligations for temperature, will they take the same position for toxic chemicals that are ultimately passed to people by consuming salmon and other fish? The CWA provides mechanisms for regulatory relief when water quality standards cannot be met *after* appropriate efforts to comply and sufficient studies have been done to understand what level of water quality improvement is possible. Whether temperature or toxic chemicals, federal agencies should be held to the same standards as our ranches and farms and be required to contribute to cleaning up our rivers under the Clean Water Act.

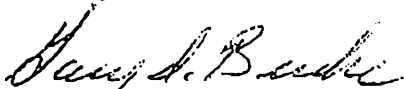
Additionally, we are very concerned that none of the federal agencies involved are addressing their trust responsibilities to the CTUIR and our treaty protected resources. Who is representing the trust resources of the CTUIR in these Washington D.C. negotiations? We ask for your help Mr. Connaughton to assure that representatives sufficiently experienced in federal Indian law are included in all discussions of the Columbia River temperature TMDL. Further we need to know who these individuals are so we can communicate with them. Members of our staff are available to participate in these discussions. If that is not possible, we wish to immediately engage in a discussion about appropriately qualified individuals who can competently represent the treaty protected resources of the CTUIR in these negotiations.

We firmly believe that it is the responsibility of the CEQ to end the political interference imposed by the U.S. Army Corps of Engineers and others. The interests of the region, the resources and the dams are best supported by the in-progress collaborative efforts of the states, tribes and EPA to address temperature in the Columbia and Snake Rivers. We believe the example of the federal action agencies running to Washington D.C. for a political exemption does not set a good example.

We therefore request immediate release of the draft temperature TMDL for public review and comment, and respectfully request your written notification of such to us within 30 days. Please advise us who among the federal agencies involved will be responsible for protecting tribal interests and upholding the fiduciary responsibilities of the United States. Please contact Rick George at 541-966-2351 to discuss the next steps in this coordination.

Thank you very much for your attention to this matter.

Sincerely,



Gary I. Burke

Chairman of the CTUIR Board of Trustees

Cc: John Iani, EPA Region 10  
Tony Hanson, AJEO

DNR-EPRP-KF